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17 **BEFORE THE**
18 **BOARD OF REGISTERED NURSING**
19 **DEPARTMENT OF CONSUMER AFFAIRS**
20 **STATE OF CALIFORNIA**

21 In the Matter of the Statement of Issues Against:

Case No. 2012-640

22 **CHUKWUDI MASTERS ONYEACHONAM**

STATEMENT OF ISSUES

23 Respondent.

24 Complainant alleges:

25 **PARTIES**

26 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
27 her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
28 Department of Consumer Affairs.

29 2. On or about September 1, 2011, the Board of Registered Nursing, Department of
30 Consumer Affairs received an application for a Registered Nurse License from Chukwudi
31 Masters Onyeachonam (Respondent). On or about August 18, 2011, Chukwudi Masters
32 Onyeachonam certified under penalty of perjury to the truthfulness of all statements, answers, and
33 representations in the application. The Board denied the application on November 7, 2011.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3)(A) Done any act that if done by a licentiate of the business or profession in
2 question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the crime
4 or act is substantially related to the qualifications, functions, or duties of the business
5 or profession for which application is made.

6 (b) Notwithstanding any other provision of this code, no person shall be denied
7 a license solely on the basis that he or she has been convicted of a felony if he or she
8 has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
9 Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
10 convicted of a misdemeanor if he or she has met all applicable requirements of the
11 criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
12 person when considering the denial of a license under subdivision (a) of Section 482.

13 (c) A board may deny a license regulated by this code on the ground that the
14 applicant knowingly made a false statement of fact required to be revealed in the
15 application for the license.

16 7. Section 493 of the Code states:

17 Notwithstanding any other provision of law, in a proceeding conducted by a
18 board within the department pursuant to law to deny an application for a license or to
19 suspend or revoke a license or otherwise take disciplinary action against a person who
20 holds a license, upon the ground that the applicant or the licensee has been convicted
21 of a crime substantially related to the qualifications, functions, and duties of the
22 licensee in question, the record of conviction of the crime shall be conclusive
23 evidence of the fact that the conviction occurred, but only of that fact, and the board
24 may inquire into the circumstances surrounding the commission of the crime in order
25 to fix the degree of discipline or to determine if the conviction is substantially related
26 to the qualifications, functions, and duties of the licensee in question.

27 As used in this section, "license" includes "certificate," "permit," "authority,"
28 and "registration."

8. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or
deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the
following:

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(f) Conviction of a felony or of any offense substantially related to the
qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

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1 (d) Any conviction or act subject to an order of registration pursuant to Section
2 290 of the Penal Code.

3 12. California Code of Regulations, title 16, section 1445 states:

4 (a) When considering the denial of a license under Section 480 of the code,
5 the board, in evaluating the rehabilitation of the applicant and his/her present
6 eligibility for a license will consider the following criteria:

7 (1) The nature and severity of the act(s) or crime(s) under consideration as
8 grounds for denial.

9 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
10 under consideration as grounds for denial which also could be considered as grounds
11 for denial under Section 480 of the code.

12 (3) The time that has elapsed since commission of the act(s) or crime(s)
13 referred to in subdivision (1) or (2).

14 (4) The extent to which the applicant has complied with any terms of parole,
15 probation, restitution, or any other sanctions lawfully imposed against the applicant.

16 (5) Evidence, if any, of rehabilitation submitted by the applicant.

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18 **FIRST CAUSE FOR DENIAL OF APPLICATION**

19 **(March 16, 2010 Criminal Conviction for DUI on December 20, 2009)**

20 13. Respondent's license application is subject to denial under sections 480,
21 subdivision (a)(1) and (a)(3)(A) of the Code in that he was convicted of a crime that is
22 substantially related to the qualifications, duties, and functions of a registered nurse. Said
23 conviction would be a ground for discipline under section 2761, subdivision (f) of the Code for a
24 licensed registered nurse. The circumstances are as follows:

25 a. On or about March 16, 2010, in a criminal proceeding entitled *People of*
26 *the State of California v. Chukwudi Masters Onyeachonam*, in San Bernardino County Superior
27 Court, case number TSB1000380, Respondent was convicted on his plea of guilty to violating
28 Vehicle Code section 23152, (a), driving under the influence of alcohol, a misdemeanor. The
plea dismissed an additional count of violating Vehicle Code section 23152, subdivision (b),
driving with a blood alcohol concentration (BAC) of .08 percent or more.

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1 b. As a result of the conviction, on or about March 16, 2010, Respondent was
2 granted 36 months probation. Respondent was further ordered to complete a four-month First
3 Offender Alcohol Program, pay \$1,748 in fees, fines and restitution, and comply with standard
4 DUI probation conditions.

5 c. The facts that led to the conviction are that at or about 4:15 a.m. on
6 December 20, 2009, a California Highway Patrol officer was driving on Interstate 15 en route to a
7 traffic collision. Respondent was driving his vehicle in the number one lane. As the CHP officer
8 drove past Respondent in the number two lane, Respondent's vehicle began straddling the
9 number one and two lanes, and drifted towards the CHP officer. The CHP officer had to brake
10 hard and swerve to the right to avoid being struck by Respondent's vehicle. The officer slowed
11 his patrol car and began following Respondent. The officer observed Respondent's vehicle
12 traveling in a serpentine manner, nearly colliding with a concrete curb. The CHP officer
13 conducted a traffic stop. As the officer spoke to Respondent, he noted a strong and distinct odor
14 of an alcoholic beverage emitting from within the vehicle. Respondent told the officer that he
15 was getting a text message from his wife and that is why he was weaving. Respondent stated he
16 had not consumed any alcohol and that he was on his way to work. Respondent was directed to
17 exit his vehicle. The officer continued to note the strong odor of an alcoholic beverage emitting
18 from Respondent's breath and person, his eyes were red and watery, and his speech was slurred.
19 A second CHP officer arrived at the scene and conducted a series of field sobriety tests, which
20 were not completed satisfactorily. Respondent provided two breath samples that were analyzed
21 by the preliminary alcohol screening test with a BAC of .151 and .148, respectively. Based on
22 Respondent's objective symptoms of intoxication, his performance on the field sobriety tests, and
23 the PAS results, Respondent was arrested for driving under the influence of alcohol.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct - Dangerous Use of Alcohol)**

26 14. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
27 of the Code in that on or about December 20, 2009, Respondent used alcoholic beverages to an
28 extent or in a manner that was dangerous and injurious to himself and the public when he

1 operated a motor vehicle while impaired by alcohol, as described in paragraph 13, above. Such
2 conduct would be a ground for discipline under section 2762, subdivision (b) of the Code for a
3 licensed registered nurse.

4 **THIRD CAUSE FOR DENIAL OF APPLICATION**

5 **(Unprofessional Conduct - Conviction of an Alcohol-Related Offense)**

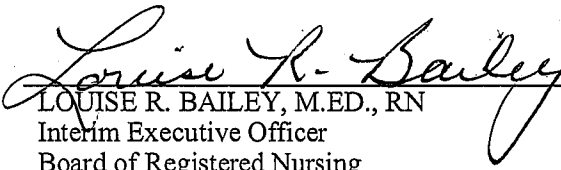
6 15. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
7 of the Code in that on or about March 16, 2010, Respondent was convicted of a criminal offense
8 involving the consumption of alcohol as described in paragraph 13, above. Such conduct would
9 be a ground for discipline under section 2762, subdivision (b) of the Code for a licensed
10 registered nurse.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

- 14 1. Denying the application of Chukwudi Masters Onyeachonam for a Registered Nurse
15 License;
16 2. Taking such other and further action as deemed necessary and proper.

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19 DATED: April 17, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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